

## REMARKS

This response cures the deficiencies noted by the Examiner in the Notice of Non-Compliant Amendment mailed February 17, 2010. More specifically, the term "filed devices" has been corrected to recite "field devices" as was recited in the previous Amendment filed August 8, 2008. Thus, the status identifiers for claims 15 and 17 are now correctly labeled "previously presented". It is respectfully submitted that the term was inadvertently mistyped in the October 13, 2009 Amendment. For the Examiner's convenience, the remainder of this Amendment is identical to the Amendment filed on October 13, 2009 in response to the Office Action mailed July 10, 2009.

Claims 1, 4-8, 10 have been amended. Claim 16 has been cancelled. Claims 1-15 and 17 are pending and under consideration.

Favorable reconsideration of this application, in light of the following discussion and in view of the present amendment, is respectfully requested.

### I. Rejections under 35 U.S.C. § 112

In the Office Action, at pages 2-3, claims 1 and 7-8 were rejected under the second paragraph of 35 USC § 112 as being indefinite. Claims 1 and 7-8 have been amended in response to this rejection. Accordingly, withdrawal of the § 112 rejection is respectfully requested.

In the Office Action, at pages 3-4, claim 16 was rejected under the first paragraph of 35 USC § 112 as failing to comply with the written description requirement and the enablement requirement. Claim 16 has been cancelled. Accordingly, withdrawal of the § 112 rejection is respectfully requested.

### II. Rejection under 35 U.S.C. § 103

In the Office Action, at pages 5-9 and 10-11, claims 1-8 and 10-16 were rejected under 35 USC § 103(a) as being unpatentable over Trompower et al. ("Trompower", U.S. Patent No. 6,088,591) in view of Fischel et al. ("Fischel", U.S. Patent App. Pub. No. 2002/0009134).

Claim 1, for example, has been amended to recite:

at predefined maximum time intervals, the base stations in the respective radio cells simultaneously transmit test signals during test cycles, wherein, during each test cycle, each respective base station transmits a number of test signals at least equal to a number of unique communication channels being used by the respective base station and each base station having a radio cell

that overlaps the radio cell of the respective base station.

In other words, during each test cycle, each base station transmits a number of test signals at least equal to a number of unique communication channels being used by the respective base station plus each base station having a radio cell that overlaps the radio cell of the respective base station. At least this feature of claim 1 is not taught by either Trompower or Fischel, so that claim 1 patentably distinguishes over the combination of Trompower and Fischel. Accordingly, withdrawal of the § 103(a) rejection is respectfully requested.

Similar features to those described above with respect to claim 1 are also recited in amended claims 7-8 and 10, so that so claims 7-8 and 10 patentably distinguish over the combination of Trompower and Fischel. Accordingly, withdrawal of these § 103(a) rejections is respectfully requested.

Claims 2-6 and 15 depend either directly or indirectly from claim 1, and include all the features of claim 1, plus additional features that are not discussed or suggested by the references relied upon. Therefore, claims 2-6 and 15 patentably distinguish over the references relied upon for at least the reasons noted above. Accordingly, withdrawal of these § 103(a) rejections is respectfully requested.

Claims 11-14 depend either directly or indirectly from claim 10, and include all the features of claim 10, plus additional features that are not discussed or suggested by the references relied upon. Therefore, claims 11-14 patentably distinguish over the references relied upon for at least the reasons noted above. Accordingly, withdrawal of these § 103(a) rejections is respectfully requested.

In the Office Action, at pages 9-10, claims 9 and 17 were rejected under 35 USC § 103(a) as being unpatentable over Trompower and Fischel in view of Brueckner et al. ("Brueckner", U.S. Patent App. Pub. No. 2002/0024929).

As discussed above, the combination of Trompower and Fischel does not discuss or suggest all of the features of claims 1 and 8, so that claims 1 and 8 each patentably distinguish over the combination of Trompower and Fischel. Brueckner fails to make up for the deficiency in the combination of Trompower and Fischel with respect to claims 1 and 8, so that claims 1 and 8 each patentably distinguish over the combination of Trompower and Fischel and Brueckner.

Claim 9 depends from claim 8 and claim 17 depends from claim 1, so that claims 9 and 17 each patentably distinguish over the combination of Trompower and Fischel and Brueckner. Accordingly, withdrawal of these § 103(a) rejections is respectfully requested.

**CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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